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### FINDLAW DAILY OPINION SUMMARIES U.S. 1ST CIRCUIT COURT OF APPEALS

#### Civil Procedure, Dispute Resolution & Arbitration

##### **First State Insurance Company v. National Casualty Company, No. 14-1644**

After underlying arbitration proceedings had run their course between the parties in this case, appellees First State Insurance Company and New England Reinsurance Corporation separately petitioned to confirm the panel's final award. The district court consolidated the two confirmation petitions and, after a hearing, summarily confirmed both the contract interpretation award and the final arbitration award. The district court further denied appellant National Casualty Company's cross-petition to vacate the challenged award. The judgment of the district court is affirmed, where: 1) the arbitration clause here contains an "honorable engagement" provision, which authorized the arbitrators to grant equitable remedies; 2) the reservation of rights procedure adumbrated in the contract interpretation award is such an equitable remedy; and 3) a federal court's authority to defenestrate an arbitration award is extremely limited, and it is further limited by the existence of an "honorable engagement" provision.

#### Criminal Law & Procedure, Evidence

##### **US v. Habibi, No. 14-1403**

Defendant's conviction for possession of a stolen firearm in violation of 18 U.S.C. section 922(j) is affirmed, where: 1) there was no abuse of discretion in the district court's admission of the objected-to testimonial of defendant's drug use and heroin trafficking; 2) this case is not the "rare and extraordinarily compelling" one that requires a reversal of the district court's on-the-spot judgment concerning the weighing of probative value and unfair effect; 3) the district court did not abuse its discretion in allowing FBI Special Agent Peavey to testify on issues relating to DNA residue, as the objected-to testimony satisfied each of the criteria of Federal Rules of Evidence 701; and 4) the district court properly declined to give an instruction to the jury on the defense's so-called "transitory possession theory, as defendant did not present sufficient evidence to be entitled to the instruction.

#### Criminal Law & Procedure, Evidence

##### **US v. Hufstetler, No. 14-1393**

Defendant challenges his conviction for robbing a federal credit union, arguing that he was coerced into confessing to the crime in violation of his Fifth Amendment rights. At the time of defendant's interrogation, his girlfriend was also in police custody for the robbery, and a significant portion of defendant's interrogation thus dealt with the impact that his cooperation would have on her prospect for release. Before trial, defendant filed two motions to suppress his confession, each based on the theory that the invocation of his girlfriend in such a manner

constituted an improper threat or promise. The district court rejected defendant's argument and denied the two motions to suppress. The judgment is affirmed, where: 1) the police officers did not act impermissibly; and 2) defendant confessed through his own volition, as the transcript and recording of the interrogation are devoid of evidence that defendant lacked sufficient control over his own choices.

Criminal Law & Procedure, Evidence

**US v. Molina-Gomez, No. 13-1494**

In this criminal case, the district court denied defendant's motion to suppress both the heroin discovered in hidden compartments of his laptop computer and video game console, and some of the statements he made to US Customs and Border Protection officers upon returning to Puerto Rico from Colombia. Defendant also made statements regarding drug trafficking activity. The case is remanded so that defendant may have the option of withdrawing his guilty plea and proceeding to trial should he choose to do so, where: 1) the motion to suppress the seized heroin and the motion to suppress the statements made upon reentry to Puerto Rico were properly denied, but the statements regarding defendant's drug trafficking activity should have been suppressed; and 2) though it is highly unlikely that the suppression of the drug trafficking activity statements would have affected defendant's decision to plead guilty, it is defendant's decision to make and not the court's decision.

Contracts, Sanctions

**Advanced Flexible Circuits, Inc. v. GE Sensing & Inspection Technologies GMBH, No. 12-2007**

This case arises out of the termination of pre contractual negotiations between plaintiff and defendants. After two years of negotiations between the parties, but prior to the execution of a contract, defendants terminated negotiations with plaintiff. Plaintiff filed suit, alleging that defendants were liable for precontractual damages under the Puerto Rico doctrine of culpa in contrahendo for arbitrarily and unjustifiably withdrawing from contractual negotiations. Summary judgment in favor of defendants is affirmed, where: 1) plaintiff has offered no competent evidence permitting a finding of liability on its culpa in contrahendo claim, as other than speculative conclusory allegations, plaintiff has offered no evidence that defendants' termination of the contractual negotiations was arbitrary, unjustified, or otherwise wrongful; and 2) the district court did not abuse its discretion in sanctioning plaintiff for failing to comply with the district court's "anti-ferret rule" (D.P.R. Civ. R. 56).